

**COMMITTEE ON THE IMPACT OF
DOMESTIC VIOLENCE AND THE COURTS**

Meeting Minutes

May 10, 2011

Arizona State Courts Building

Conference Room 119 A/B

1501 W. Washington Street, Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable Emmet Ronan, Chair

Honorable Carol Scott Berry

Ms. Cathy Clarich

Ms. Joi Davenport

Dr. Kathy S. Deasy- *telephonic*

Dr. Joan Fox

Ms. Gloria E. Full

V. Michele Gamez, Esq.

Professor Zelda Harris – *telephonic*

Bridget Humphrey, Esq.- *telephonic*

Honorable Carey S. Hyatt

Honorable Joseph P. Knoblock

Patricia Madsen, Esq.

Ms. Dana Martinez

Ms. Leah Meyers, M.S.W.

Chief Jerald L. Monahan

Honorable Cathleen Brown Nichols -
telephonic

Ms. Marla Randall

Captain David Rhodes

Ms. Andrea K. Sierra

Ms. Lindsay Simmons – *proxy for Ms.
Allison Bones*

Ms. Renae Tenney

Detective Eugene J. Tokosh

Ms. Tracey J. Wilkinson

MEMBERS ABSENT:

Honorable Wendy Million

Ms. Heidi Muelhaupt

PRESENTERS / GUESTS:

Mr. William McCarroll, AzDHS

Ms. Stephanie Mayer, AzCADV

Honorable Elizabeth Finn, Glendale City Court

Mr. Jerry Landau, AOC

Ms. Marla Pressler, Glendale Police Department

Ms. Amy Love, AOC

STAFF:

Ms. Kay Radwanski, AOC

Ms. Tama Reily, AOC

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the May 10, 2011, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order by Judge Emmet J. Ronan, chair, at 10:05 a.m.

Judge Ronan introduced a new member, Captain David Rhodes from the Yavapai County Sheriff's Department. In addition, Ms. Radwanski, committee staff, introduced new support staff member Tama Reily, who is taking the place of Lorraine Nevarez. Ms. Nevarez has moved to another AOC Division.

B. Approval of Minutes

The minutes from the February 8, 2011, CIDVC meeting were presented for approval.

MOTION: To approve the February 8, 2011, meeting minutes as presented. Motion seconded. Approved unanimously.
CIDVC-11-015

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. State Regulation of Batterer Treatment Programs

Mr. William McCarroll, Arizona Department of Health Services (ADHS), discussed the Arizona Administrative Code requirements for licensure of batterer treatment programs. He related various factors involved in offender treatment, such as the offense levels that influence the number of sessions and whether defendants can participate in a group counseling setting. He said there are sometimes conflicts between what the courts think offenders should be required to do and what ADHS' Office of Behavioral Health Licensing finds appropriate. For example, there are regulatory requirements for attendance at programs for domestic violence misdemeanants. A judicial officer should not order fewer classes than required by regulation. If this occurs, the program provider will not be able to provide a certificate of completion for the offender.

Mr. McCarroll also discussed some of the criteria DHS reviews in the field, including quality-of-treatment issues. A sample group of files are reviewed for compliance with minimum code requirements. He noted that non-licensed persons, called "technicians," are permitted to deliver treatment under the supervision of a licensed provider. A technician must have an associate degree and 40 hours of domestic violence training. Use of technicians fills a need in Arizona's rural areas. He explained that as the regulating body, DHS's jurisdiction is to see that minimum standards are met; however, the court can request more detailed reports on individual offenders. He suggested that CIDVC look at this matter and ask the courts to require more in this regard.

During discussion, members voiced concern with the limitations of ADHS to act in the face of possibly under-qualified treatment providers. Several members suggested this is a systemic issue. Members agreed a workgroup is needed to examine the issues and identify the root problems and explore ways in which they can be corrected, including sharing this information with judicial officers who order offenders into these programs. Judge Ronan asked members to consider volunteering for this workgroup.

B. Protective Order Coordinator Project

Judge Elizabeth Finn, presiding judge of the Glendale City Court, and Marla Pressler, Glendale Police Department protective order service coordinator, spoke regarding

Glendale's Protective Order Coordinator Project. Judge Finn gave a brief history on the grant-funded project, explaining its goals and the functions of the coordinator. The intent is to coordinate targeted service of protective orders, saving time for officers being dispatched to serve orders and keeping victims safe by not placing them close to the location of the defendant. She noted the program has been extremely successful. Currently, six West Valley cities participate in the program, and Judge Finn informed members that the goal is to increase the number of jurisdictions, particularly in the East Valley. The grant has been extended through June 30, 2012.

C. Legislative Update

Ms. Amy Love, AOC legislative liaison, and Mr. Jerry Landau, AOC government affairs director, reported on domestic violence-related bills from the recent legislative session. The main bill of note was HB 2302, which amends A.R.S. § 16-153 to include name change cases where a person is protected under an order of protection. Ms. Radwanski asked about the portion of the bill impacting A.R.S. § 12-601, which says that a name change petition and judgment can be sealed at the request of the plaintiff, but she wondered how this works in situations where a parent is required to give notice to the other parent prior to the name change hearing. Mr. Landau said the bill was intended to be forward looking, with the petition and judgment being sealed during the hearing or at the end of the process.

HB 2416: Abortion

Changes the definition of "abortion" by replacing the phrase "a surgical instrument or a machine" with "any means." Requires the court to appoint a guardian ad litem and permits a pregnant minor to participate in court proceedings regarding her ability to make an informed decision about an abortion.

HB 2438: Sexual conduct; minor

Sexual conduct with a minor who is at least 15 years old is a Class 2 felony if the offender is the minor's parent, stepparent, adoptive parent, legal guardian, foster parent, teacher, clergyman, or priest. Expands the definition of "teacher" to include anyone who provides instruction to pupils, whether directly or not.

SB 1080: Custodial interference; classification

A parent who takes or withholds a child from the other parent before the entry of a court order is not guilty of custodial interference if he or she has filed an emergency petition regarding custodial rights, has received a hearing date, and has a reasonable belief that the child could be in immediate danger if left with the other parent.

SB 1103: Unclaimed property; exempt child support

Exempts child support payments from the definition of "property" under the Revised Arizona Unclaimed Property Act.

SB 1244: Parents' rights; law enforcement investigation

Authorizes law enforcement officers to make video or audio recordings of a minor without parental consent if the recording is made during or as part of a law enforcement investigation.

SB 1424: Assessment for family offenses; stalking

In addition to any other penalty or fine, a person convicted of a violation of §§ 13-2921, 13-2921.01, 13-2923, all related to harassment and stalking, or an offense listed in title 13, chapter 36, will pay an additional \$50 assessment, which goes to the domestic violence shelter fund.

D. Protective Order Language: Multiple Units

Judge Finn addressed the committee regarding suggestions from the Glendale City prosecutor and the Glendale Police Department legal advisor that language on protective orders is not specific enough about protected locations. They fear that defendants do not sufficiently understand the orders as currently written and would like to add the language “any location at...” for those situations where the plaintiff resides in an apartment complex or a mobile home park. Judge Finn stated she has spoken with numerous judges, none of whom approve of changing the form’s language. She requested the input of CIDVC on whether this language would provide improved clarity for law enforcement agents or defendants. It was pointed out that there can be ambiguity for law enforcement officers in rural areas or in some situations where extended families live on the same mobile home property or units within a housing development that share the same address. However, the majority of members agreed that the suggested language change would not be helpful.

E. Conflicting Limited Jurisdiction Probation and Family Court Orders

Judge Carey Hyatt presented an issue for discussion concerning scenarios where a family court judge makes a parenting time order for a parent who has been placed on probation because of a domestic violence offense. There is currently nothing in place to ensure the superior court’s parenting time order does not conflict with the terms of the probation order. This type of scenario has prompted Judge Bruce Cohen to suggest the addition of language to the current probation forms so the limited jurisdiction courts can specify their orders or defer to the custody-related proceeding in the superior court. Judge Hyatt noted she will be raising this issue at an upcoming committee meeting of the municipal and justice courts but hoped to receive some feedback from this committee’s perspective. Judge Finn stated that she would have no problem adding to the language “*unless permitted by the superior court*” in order to minimize potentially conflicting orders.

F. Update – MAG DV Protocol Evaluation Project

Ms. Renae Tenney, human services planner, Maricopa Association of Governments, updated the committee on the DV Protocol Evaluation Project. With support from the Governor’s Office and Stop Violence Against Women grant funding, MAG has been given an extension for this project through the end of 2011. Ms. Tenney stated that project members have identified 106 different protocols being used across Arizona jurisdictions. They have narrowed down 28 of the protocols that are seen as promising practices, and 15 are seen as having a high rate of implementation. They are exploring

how they can learn from this information. They are also getting information from law enforcement as far as what helps and what hinders implementation of the different protocols. Additionally, they have begun affinity meetings with groups from various disciplines represented, which is helpful in sharing information. They continue with community outreach efforts to get more groups involved in the project.

At this point, Ms. Radwanski announced that sign-up sheets for current workgroups and the new workgroup discussed earlier would be passed around during the lunch break for members interested in participating.

G. Child Custody Statute Revisions

Ms. Radwanski gave a report on the child custody statute revisions. She provided a brief history on the project, which began in 2010, and has been led by the Ad Hoc Custody, Workgroup, a workgroup created by the Domestic Relations Committee (DRC). The AHCW has now forwarded its product to the DRC's Substantive Law/Court Procedures Workgroup for additional revision as needed. The revisions have consisted of some reorganization, some complete revisions, and significant changes in terminology. The term "custody" has been replaced by the term "parental decision making." There is also a new section for special circumstances that addresses such issues as domestic violence, now termed "intimate partner violence," and substance abuse. Ms. Radwanski explained there has been some controversy with stakeholder groups over the inclusion of intimate partner violence as well as the concept of "coercive control" and its inclusion in the statute. Ms. Patricia Madsen further discussed the special circumstances section, explaining that the court is required to look into whether special circumstances exist and, if so, the statute directs the court to place priority on those factors. Parental decision making determinations are affected on the basis of whether special circumstances exist.

Ms. Radwanski informed the committee that the next Substantive Law/Court Procedures meeting is scheduled for Friday, May 13, 2011, and invited any interested CIDVC members to attend. She added that the draft is expected to be presented to the DRC at its June 3, 2011, meeting, and assuming a sponsor is found, a bill is expected to be introduced in the legislature in January 2012.

H. Court Watch Program

Ms. Lindsay Simmons, Arizona Coalition Against Domestic Violence, presented on the Court Watch Program, a previously active program that has begun anew. She mentioned the other groups AzCADV collaborated with in this venture, including the Diane Halle Center for Family Justice at Arizona State University, the Avon Program for Women and Justice at the O'Connor House, and the Phoenix School of Law-Family Law Student Association. She discussed their goals, which include providing learning opportunities for law students, identifying systemic concerns in the courts, and gathering empirical data on domestic violence cases. Students plan to observe court hearings and complete a checklist during their observations. Members were provided with the proposed Arizona Court Watch Monitoring Form, and Ms. Simmons requested that members review it and provide feedback by emailing her at Lindsay@azcadv.org. Presiding judges of the superior courts have been advised about the program. Judge Finn recommended that

presiding judges of the limited jurisdiction courts also be informed. Ms. Simmons noted that the program will be piloted in Maricopa County this summer after volunteers have been trained.

I. Workgroup Reports

- A. *Best Practices* – Ms. Radwanski, committee staff, reiterated that at the last CIDVC meeting, Mr. Jeff Schrade, AOC Education Services Division director, presented code changes on education requirements. At that meeting, CIDVC had recommended the language in the code be changed to say that judges and court staff who work with Orders of Protection and Injunctions Against Harassment have annual training on these types of orders. She informed members that the COJET Committee did not adopt the recommendation but did restore the original language that read “regular” training is required. Also, Ms. Radwanski informed members that there is a collaborative effort between the Juvenile Dependency Division and the Education Services Division to bring a training called “Connect the Dots” to Phoenix in September. More information on this training can be provided to interested members.

Members signed up for this workgroup:

Ms. Allie Bones (Chair)

Ms. Leah Meyers

V. Michele Gamez, Esq.

Ms. Joi Davenport

Ms. Dana Martinez

- B. *Forms & Processes* – Judge Finn reported the workgroup is currently working on a defendant information form in conjunction with the O'Connor House Service of Protections Order Task Force. They plan to ask Chief Monahan to identify a subcommittee of statewide law enforcement representatives to discuss what data they would like to have on the form. Additionally, they are looking at possible changes to the Plaintiff's Guide Sheet, which would consist of adding check boxes where a plaintiff can indicate his or her preference regarding service.

Members signed up for this workgroup:

Hon. Elizabeth Finn (Chair)

Det. Eugene Tokosh

Ms. Tracey Wilkinson

Patricia Madsen, Esq.

Hon. Joseph Knoblock

Dr. Joan Fox

Capt. David Rhodes

Chief Jerald Monahan

- C. *ARPOP* – Nothing to report.

Members signed up for this workgroup:

Hon. Elizabeth Finn (Chair)

- D. Batterer Treatment Program – Ms. Gloria Full has volunteered to chair this workgroup. Work will begin in mid-June.

Members signed up for this workgroup:

Ms. Gloria Full (Chair)

Hon. Joseph Knoblock

Ms. Leah Meyers

Hon. Elizabeth Finn

Patricia Madsen, Esq.

Ms. Allie Bones

Hon. Carol Scott Berry

III. OTHER BUSINESS

A. Next Meeting Date

Tuesday, September 13, 2011

10:00 a.m. to 2:00 p.m.

Arizona State Courts Building

Conference Room 119 A/B

B. Good of the Order/Call to the Public

No public comments offered.

Meeting was adjourned at 2:00 p.m.